

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

JUDICIAL AND STATUTORY OFFICERS REMUNERATION  
LEGISLATION AMENDMENT BILL 1989

EXPLANATORY MEMORANDUM

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Minister for Industrial Relations



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OUTLINE

The Judicial and Statutory Officers Remuneration Legislation Amendment Bill 1989 implements the June 1989 recommendation by the members of the Remuneration Tribunal that the remuneration payable to federal and Australian Capital Territory Judges should be increased. The Bill also implements a decision announced by the Government on 13 July 1989 that the remuneration of judges of the Family Court of Australia should be brought into line with the remuneration payable to Judges of the Federal Court of Australia. In addition, the Bill amends the Remuneration Tribunal Act to give the Tribunal a power to determine judicial salaries subject to the usual disallowance procedure by either House of the Parliament.

FINANCIAL IMPACT STATEMENT

The proposed amendments will affect both the remuneration of serving judges and the pensions payable to retired Judges. It is estimated that this will involve additional expenditure of about \$3.7 million p.a.

NOTES ON CLAUSES

PART 1 - PRELIMINARY

Clause 1: Short title

1. This is a standard provision providing for the short title of the legislation.

Clause 2: Commencement

2. The effect of this clause will be that, with one exception, the increases in salaries and allowances which are to be effected by the Bill will be backdated to 1 March 1989. The exception relates to an expenses of office allowance of \$673 per annum recommended by the Remuneration Tribunal in 1988 for the Federal Court Judge who holds an appointment as Aboriginal Land Commissioner. That allowance is made payable from the date of the Judge's appointment as Aboriginal Land Commissioner, 25 May 1988. The amendment to the Remuneration Tribunal Act to enable the Tribunal to make determinations of judges' salaries, subject to Parliamentary disallowance, is to commence on the date the Act receives the Royal Assent. Clause 4, which relates to future Tribunal determinations, is also to commence on the date of Royal Assent.

PART 2 - AMENDMENTS OF THE JUDICIAL AND STATUTORY  
OFFICERS (REMUNERATION AND ALLOWANCES) ACT

Clause 3: Principal Act

3. This clause defines "Principal Act" in this Part to be the Judicial and Statutory Officers (Remuneration and Allowances) Act 1984.

Clause 4: Act subject to Remuneration Tribunal Act

4. This clause has the effect that a future determination of the Remuneration Tribunal will override the salary levels set out in the Judicial and Statutory Officers (Remuneration and Allowances) Act 1984 as amended by this Bill.

Clause 5: Salaries

5. Paragraph 5(1)(a) amends the Principal Act so as to vary the remuneration payable to Judges and to award National Wage Increases to full time Judicial Registrars and the Master of

the ACT Supreme Court. The new salaries are set out in the amended Schedule to the Principal Act. In line with a recommendation by the members of the Remuneration Tribunal, the new salaries incorporate the annual expenses of office allowance and the allowances recommended by the Tribunal in respect of those Federal Court Judges who hold another office.

6. This clause also omits sub-section (2) with the result that National Wage Case decisions will only flow through to Judges if the Remuneration Tribunal so determines. This will place Judges in the same position as holders of other public offices.

7. Paragraphs 5(1)(b)-(h) are consequential upon the decision to incorporate the expenses of office allowance into salary.

8. Subsections 5(2), (3) and (5) relate to Judges who hold Commissions on both the Family Court of Australia and the Family Court of Western Australia. Because the relevant State salary is higher than the corresponding federal salary, those Judges are currently receiving a higher salary than the other Judges on the Family Court of Australia. After the enactment of this Bill, however, the new federal salary will exceed the State salary. Subsections 5(2), (3) and (5) ensure that, in respect of the period from 1 March 1989 (the backdated commencement for the new federal salary), the Judges with dual Commissions will receive the higher federal salary but that there is no entitlement to two salaries.

#### Clauses 6 and 7: Allowances

9. These clauses increase certain allowances payable to the Justices of the High Court. Clause 6 deals with overnight travelling allowances. Clause 7 deals with the allowance payable to a High Court Justice who resides in a location other than Canberra.

Clause 8: Travelling allowances payable to holders of certain offices

10. This clause amends the travelling allowances payable to Judges and Presidential members of the Australian Industrial Relations Commission.

Clause 9: Schedule

11. This clause replaces the Schedule to the Principal Act with one which sets out the new rates of salary for Judges.

PART 3 - AMENDMENTS OF THE REMUNERATION TRIBUNAL ACT

Clause 10: Principal Act

12. This clause defines Principal Act in this Part to be the Remuneration Tribunal Act 1973.

Clause 11: Interpretation

13. This clause removes the offices of Judge and offices of persons who, by virtue of an Act, have the same status as a Judge from the list of offices that are outside the definition of a 'public office'. The effect is that such offices are brought within paragraph 4(a) of the Remuneration Tribunal Act as offices in respect of which the Tribunal may make a determination. As is the case with other offices, the Tribunal's power to make determinations is subject to disallowance by either House of the Parliament.

Clause 12: Inquiries and Reports by Tribunal

14. This clause removes the offices of Judge and offices of persons with the same status as a Judge from the Tribunal's reporting power. With the inclusion of these offices in the Tribunal's power to make determinations, it is necessary to remove them from the offices covered by s.6.

Clause 13

15. This clause makes it clear that the salaries payable to full-time Judicial Registrars and the Master of the ACT Supreme Court under the Judicial and Statutory Officers (Remuneration and Allowances) Act 1984 as amended by this Bill prevail over the existing determinations in respect of those offices by the Remuneration Tribunal.

